



SHIRYAK, BOWMAN
ANDERSON, GILL &
KADOCHNIKOV LLP

Alexander Shiryak, Esq.
Dustin Bowman,
Esq.
Mark Anderson, Esq.
Navpreet K. Gill, Esq.

Alexander Kadochnikov, Esq.

80-02 Kew Gardens Road, Suite 600, Kew Gardens, New York 11415
Tel: (718)-577-3261 Fax: (718)744-2455

February 28, 2022

The Honorable Judge Lorna G. Schofield
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: **In re Application of Carolina Andraus Lane**
1:22-mc-000034

Pre-Motion conference letter for Motion for enlargement of time to comply with an Order dated February 7, 2022; and for alternative service on Gilberto Miranda Batista pursuant to FRCP 4(f)(3).

Dear Judge Schofield:

I am counsel for the Applicant, Carolina Andraus Lane (hereinafter “Applicant”), in the above-captioned matter. I filed a motion for Discovery for use in Foreign Proceeding on Applicant’s behalf on February 3, 2022 (*See* Docket No. 1). The matter was assigned to you February 7, 2022, and the same day this Court issued an Order entered directing Applicant to serve a copy of the order and the papers in support of the Application on all the Respondents and Gilberto Miranda Batista by February 28, 2022. (*See* Docket No. 8).

I am writing to request a pre-motion conference to request (1) an enlargement of time to serve Respondents; and (2) for the alternative service on Gilberto Miranda Batista pursuant to FRCP 4(f)(3).

Enlargement of Time

The Respondents referred to in this Court’s February 7, 2022 are: (a) Citigroup Inc.; (b) Deutsche Bank AG; (c) Safra National Bank; (d) RBC Bank; (e) Morgan Stanley & Co. LLC; (f) Fox Horan & Camerini LLP.

To date, the process service company I employed was able to serve Fox Horan & Camerini LLP; and Safra National Bank.

The process service company attempted to serve Citigroup Inc, but were told to come back on a different day. According to my phone call with the process service company, they are attempting service as of today's date.

Service to Deutsche Bank AG, and Morgan Stanley Co. LLC is attempted through Department of State as those companies' registered agent.

Service on RBC Bank is abandoned, as there is also a similar application about to be filed in the Southern District of Florida Court, and it appears that RBC Bank has its principal place of business in the Southern District of Florida.

Alternative Service on Gilberto Miranda Batista.

I am also respectfully requesting a pre-motion conference, as Applicant is moving this Court pursuant to FRCP 4(f)(3) to permit Applicant to serve Defendant Gilberto Miranda Batista through alternative means. Specifically, Applicant requests to appoint Miguel Pereira Neto, the attorney representing Applicant in the Brazilian Proceeding for which discovery is being sought, as Applicant's agent for service of process. Applicant also respectfully asks that Miguel Pereira Neto be permitted to serve process on the attorney representing Defendant Batista in the Brazilian Proceeding for which discovery is being sought. This method of service would notify Batista of the Application and issuance of subpoenas in a more efficient, certain, and fair manner, than would service pursuant to the Hague Convention, given Brazil's status as recent signatory to the Hague Convention and the subsequent uncertainty resulting from the impact of the COVID-19 pandemic on Brazil's switch to Hague procedures.

I am prepared to brief the Court more on this above issue, and Miguel Pereira Neto is prepared to give a declaration in support of the application for alternative service.

Accordingly, (1) I am respectfully requesting for enlargement of time to serve the remaining respondents in this District, and (2) I am asking the Court to permit service by alternative means on Gilberto Miranda Batista pursuant to FRCP 4(f)(3).

We thank the Court for its time and effort in consideration of this matter.

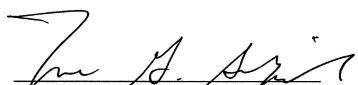
Respectfully submitted,

/s/Kadochnikov

Alexander Kadochnikov, Esq.

Application **GRANTED**. The application is untimely and should have been made two business days in advance of the deadline sought to be extended. By **March 21, 2022**, Petitioner shall serve the remaining respondents and Gilberto Miranda Batista. Petitioners may affect service on Batista by serving his attorney in the Brazilian proceeding. The deadline for responsive papers, including Petitioner's request for subpoenas naming Donald Fox and Rafeal Urquia II, is extended to **April 18, 2022**. Reply papers, if any, are due by **May 2, 2022**. Submissions shall not exceed six pages and shall otherwise comply with the Court's Individual Rules. The Clerk of Court is respectfully directed to close the motions at Dkt. Nos. 9 and 10.

Dated: March 1, 2022
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE